

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

SUSAN LYNN BELMORE,

Plaintiff,

v.

Case No. 17-cv-686-pp

COMMISSIONER OF THE
SOCIAL SECURITY ADMINISTRATION,

Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED
WITHOUT PREPAYMENT OF THE FILING FEE (DKT. NO. 2)**

On May 16, 2017, the plaintiff filed a complaint seeking judicial review of a final administrative decision denying her claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. The plaintiff also filed a motion for leave to proceed without prepayment of the filing fee. Dkt. No. 2. In order to allow a plaintiff to proceed without paying the filing fee, the court must first decide whether the plaintiff has the ability to pay the filing fee, and if not, must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and (e)(2)(B)(i).

Based on the information provided by the plaintiff, the court concludes that she does not have the ability to pay the filing fee. The plaintiff's affidavit states that in the last twelve months, she has had no income other than a \$2,000 loan from her sister. Her monthly expenses total \$200, and she has \$12.00 in her checking and savings accounts. According the plaintiff, her home

is in foreclosure. She spent her entire retirement on six years of expenses, including “\$2,500 a month for Insulin supplies and medicine.” The court concludes from that information that the plaintiff has demonstrated that she cannot pay the \$350 filing fee and \$50 administrative fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Neitzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner’s final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

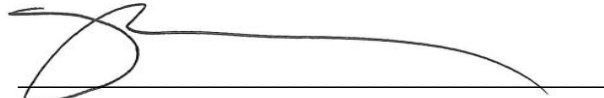
The plaintiff attaches the March 30, 2017 notice from the Appeals Council denying her request for review of the administrative law judge’s decision. The form complaint states that the plaintiff “believes the Commissioner’s unfavorable conclusions and findings of fact are not supported by substantial evidence; and/or are contrary to law and regulation.” Dkt. No. 1 at 4. At this early stage in the case, the court concludes that there may be a basis in law or fact for the plaintiff’s appeal of the Commissioner’s decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff’s motion for leave to proceed without

prepayment of the filing fee. (Dkt. No. 2).

Dated in Milwaukee, Wisconsin this 8th day of September, 2017.

BY THE COURT:

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a horizontal line extending to the right.

HON. PAMELA PEPPER
United States District Judge